

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

NETJUMPER SOFTWARE, L.L.C.,  
a Michigan limited liability corporation,

Plaintiff,

vs.

GOOGLE INC.,  
a Delaware corporation,

Defendant.

Case No. 04-70366-CV  
Hon. Julian Abele Cook  
Magistrate Judge R. Steven Whalen

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**PLAINTIFF'S ANSWER TO DEFENDANT'S SECOND AMENDED COUNTER-CLAIM AND  
PLAINTIFF'S AFFIRMATIVE DEFENSES TO COUNTER-CLAIM, AND  
RESPONSE TO GOOGLE'S SECOND AMENDED AFFIRMATIVE DEFENSES**

**RESPONSE TO GOOGLE'S AFFIRMATIVE DEFENSES**

9. Denied.
10. Denied.
11. Denied.
12. Denied.
13. As to paragraph 13, Denied.
  - a.) Denied. The inventors were aware of advertisements for the NetCarta CyberPilot product, however they were not aware of the content of said product.
  - b.) Admit that Gilbert Borman was aware of advertisements related to the NetCarta CyberPilot product, but denies he was aware of said product.
    - i.) Admit.
  - c.) Denied.
    - i.) Denied.
    - ii.) Denied.
  - d.) Denied for reasons stated in paragraphs 13 (a) and (b).
  - e.) Denied.
  - f.) Denied.
  - g.) Admitted that these references were not cited, but deny that they were material.
  - h.) Denied.
  - i.) Denied.

**PLAINTIFF'S ANSWER TO DEFENDANT'S AMENDED COUNTER-CLAIM AND  
PLAINTIFF'S AFFIRMATIVE DEFENSES TO COUNTER-CLAIM, COUNTS V-XII**

**Parties**

14. Upon information and belief, admitted.
15. Admitted with the exception that Counterclaim Defendant's offices are no longer in Southfield, Michigan.

**Jurisdiction**

16. Admitted that the action is brought under the cited statutes.

**Venue**

17. Admitted.

**Count I: Declaratory Relief Regarding Non-Infringement of the '172 Patent**

18. Plaintiff Netjumper Software, LLC's ("Netjumper") answers to the allegations contained in paragraphs 14 through 17 above are incorporated herein by reference.
19. Denied.
20. Admitted.
21. No answer required. To the extent an answer is required, Netjumper denies this allegation and requests that Defendant Google's requests be denied.

**Count II: Declaratory Relief Regarding Non-Infringement of the '655 Patent**

22. Plaintiff Netjumper Software, LLC's ("Netjumper") answers to the allegations contained in paragraphs 14 through 17 above are incorporated herein by reference.
23. Denied.
24. Admitted.
25. No answer required. To the extent an answer is required, Netjumper denies this allegation and requests that Defendant Google's requests be denied.

**Count III: Declaratory Relief Regarding Invalidity and Unenforceability of the '172 Patent**

26. Plaintiff Netjumper Software, LLC's ("Netjumper") answers to the allegations contained in paragraphs 13 through 17 above are incorporated herein by reference.
27. Denied.
28. Admitted.
29. No answer required. To the extent an answer is required, Netjumper denies this allegation.
30. Denied.
31. Denied.
32. No answer required. To the extent an answer is required, Netjumper denies this allegation and requests that Defendant Google's requests be denied.

**Count IV: Declaratory Relief Regarding Invalidity and Unenforceability of the '655 Patent**

- 33. Plaintiff Netjumper Software, LLC's ("Netjumper") answers to the allegations contained in paragraphs 13 through 17 above are incorporated herein by reference.
- 34. Denied.
- 35. Admitted.
- 36. No answer required. To the extent an answer is required, Netjumper denies this allegation and requests that Defendant Google's requests be denied.
- 37. Denied.
- 38. Denied.
- 39. No answer required. To the extent an answer is required, Netjumper denies this allegation and requests that Defendant Google's requests be denied.

**PRAYER FOR RELIEF**

- A. That NetJumper be awarded damages, including enhanced damages for willful infringement and attorney fees.
- B. That Google's request be denied.
- C. That Google's request be denied.
- D. That Google's request be denied.
- E. That Google's request be denied.
- F. That Google's request be denied.
- G. That Google's request be denied.
- H. That Google's request be denied.

- I. That Google's request be denied.

**PLAINTIFF'S AFFIRMATIVE DEFENSES TO COUNTER-CLAIM COUNTS I-IV**

1. That the amended counter-claim is moot.
2. That the amended counter-claim fails to state a cause of action.
3. That the amended counter-claim is barred by estoppel.
4. That the amended counter-claim is barred by doctrine of unclean hands.
5. That the amended counter-claim is barred by waiver and/or consent.
6. That Google has suffered no harm or damages.
7. NetJumper reserves the right to add affirmative defenses.

**PRAYER FOR RELIEF**

WHEREFORE, NetJumper respectfully requests:

- A. That the Amended Counter-Claim, Counts I-IV, be denied; and
- B. That Netjumper be awarded its costs and attorney fees necessitated in defense of this action.

Respectfully submitted,

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**PROOF OF SERVICE**

I certify that on 10-17-05, I electronically filed the forgoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

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and I hereby certify that I have mailed by United States Postal Service First Class Mail the paper to the following non-ECF participants:

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